



PATENT
Docket No. H 3939 PCT/US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

For Purpose Only

Appellants: Naumann et al.
Appl. No.: 10/088,059
Filed: May 29, 2002
Grp./A.U.: 1616
Examiner: Marina Lamm
Customer No.: 00423
Confirm No.: 6726
Title: USE OF 2-NITRO-P-PHENYLENE DIAMINE
DERIVATIVES AS DIRECT COLORANTS

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Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPELLANTS' APPEAL BRIEF

Appellants appeal under 37 C.F.R. § 1.192(a) from the Final Office Action of May 5, 2004. A Notice of Appeal and payment of the appeal fee under 37 C.F.R. § 1.17(b) was timely filed on August 3, 2004. A request for a two months extension of time accompanies this response.

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I. Real Party In Interest

The real party in interest in this appeal is the assignee, Henkel Kommanditgesellschaft auf Aktien (Henkel KGaA).

Applicants' N-cylopentyl-p-phenylenediamine would impart reddish tones to keratin fibers.

Claims 35 and 37 are rejected under 35 USC 103(a) as being unpatentable over Bil as applied to claim 23, and further in view of Grollier et al., U.S. Patent No. 4,566,875. It is respectfully submitted that the use of this additional reference for its teaching that cationic polymers can be used in hair dye formulations does not overcome the inadequacy of Bil as the primary obviousness reference, as discussed hereinabove. The reversal of this rejection on appeal is therefore respectfully requested.

CONCLUSION

For the reasons stated above, the Examiner's Final Rejection of all or part of claims 19, 21-23 and 25-38 should be reversed. Appellants submit this brief, in triplicate, in support for their appeal. The Commissioner is hereby authorized to charge the Appeal Brief Fee of \$340.00 to Deposit Account No. 01-1250. Order No. 04-0451. Should any fees be due for entry and consideration of this